

PROB. 12B
(7/93)

ORIGINAL

FILED IN THE
UNITED STATES DISTRICT COURT
DISTRICT OF HAWAII

United States District Court

for the

DISTRICT OF HAWAII

2 MAY 21 2008
at _____ o'clock and _____ min.
SUE BEITIA, CLERK

**Request for Modifying the Conditions or Term of Supervision
with Consent of the Offender**

(Probation Form 49, Waiver of Hearing is Attached)

Name of Offender: CHRISTIAN LUPENUI

Case Number: CR 03-00560SOM-11

Name of Sentencing Judicial Officer: The Honorable Susan Oki Mollway
U.S. District Judge

Date of Original Sentence: 4/7/2005

Original Offense: CONSPIRACY TO DISTRIBUTE AND POSSESS WITH INTENT
TO DISTRIBUTE IN EXCESS OF 50 GRAMS OF
METHAMPHETAMINE, in violation of 21 U.S.C. §§ 841(a)(1),
(b)(1)(A), and 846, a Class A felony

Original Sentence: Thirty (30) months imprisonment followed by four (4) years
supervised release with the following special conditions: 1) That
the defendant participate in a substance abuse program, which
may include drug testing at the discretion and direction of the
Probation Office; and 2) That the defendant provide the
Probation Office and the Financial Litigation Unit of the
U.S. Attorney's Office access to any requested financial information
to include submitting to periodic debtor's examinations as directed
by the Probation Office. The Court also ordered that the fine of
\$500 is due immediately and any remaining balance upon release
from confinement be paid during the period of supervision on an
installment basis according to the collection policy of the
Probation Office but at a rate of not less than 10 percent of his
monthly gross income.

Type of Supervision: Supervised Release Date Supervision Commenced: 10/27/2006

PETITIONING THE COURT

[✓] To modify the conditions of supervision as follows:

General Condition: That the defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of the commencement of supervision and at least two drug tests thereafter but no more than eight valid drug tests per month during the term of supervised release, unless there is a positive drug test, in which event the maximum shall increase to up to one valid drug test per day (mandatory condition).

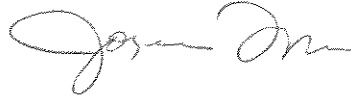
CAUSE

Since the commencement of supervised release on 10/27/2006, the subject has been compliant and has posed no management problems. The subject has maintained stable housing. Although he was recently laid off from a job, he was hired by the State Civil Defense Department as a warehouse worker on 5/8/2008. The subject completed substance abuse treatment on 12/4/2007.

The subject has agreed to modify his conditions of supervised release to allow drug testing consistent with the mandates of United States v. Stephens. This modification is warranted when considering the subject's substance abuse history. According to the presentence report, the subject had been using methamphetamine on a weekly basis. The revised condition will assist our office in monitoring the subject's compliance since he is no longer enrolled in substance abuse treatment, which included drug testing.

Attached is a signed Waiver of Hearing to Modify Conditions of Supervised Release. The subject waives his right to a hearing and to assistance of counsel. The subject agrees to the modification of the conditions of supervised release. The subject's attorney and the U.S. Attorney's Office have been notified of the proposed modification and have no objections.

Respectfully submitted by,



JOYCE K.F.K. LUM
U.S. Probation Officer

Approved by:




TIMOTHY M. JENKINS
Supervising U.S. Probation Officer

Date: 5/16/2008

THE COURT ORDERS:

- ☒ The Modification of Conditions as Noted Above
☐ Other



SUSAN OKI MOLLWAY
U.S. District Judge

5/20/08

Date

NOTICE REGARDING MODIFICATION OF CONDITIONS

The defendant understands that any modification of court-ordered conditions is not a waiver of those conditions or of any consequence of violating those conditions. Violations that have preceded this or any modification of conditions may be considered by the court as a basis for revoking supervised release or probation, especially, but not only, in the event of a future violation, whether any such future violation is similar to or different from any preceding violation.

The absence of this notice does not confer, and should not be interpreted by the defendant as conferring, any rights on the defendant. The absence of this notice does not indicate, and should not be interpreted by the defendant as indicating, any position by the court or by the defendant. Even in the absence of this notice, supervised release or probation may, in the future, be revoked based on violations occurring before this or any other modification of conditions.

Agreed to and acknowledged:


Defendant

Print Name: CHRIS LUPERCINI

Date: 5/3/08

PROB 49
(5/96)

United States District Court

District of Hawaii

Waiver of Hearing to Modify Conditions of Probation/Supervised Release and/or Extend Term of Supervision

I have been advised and understand that I am entitled by law to a hearing and assistance of counsel before any unfavorable change may be made in my Conditions of Probation and Supervised Release and/or my period of supervision being extended. By "assistance of counsel," I understand that I have the right to be represented at the hearing by counsel of my own choosing if I am able to retain counsel. I also understand that I have the right to request the court to appoint counsel to represent me at such a hearing at no cost to myself if I am not able to retain counsel of my own choosing.

I hereby voluntarily waive my statutory right to a hearing and to assistance of counsel. I also agree to the following modification of my Conditions of Probation and Supervised Release and/or to the proposed extension of my term of supervision:

- ☐ To extend the term of supervision for years, for a total term of years.
☒ To modify the conditions of supervision as follows:

General Condition *That the defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of the commencement of supervision and at least two drug tests thereafter but no more than eight valid drug tests per month during the term of supervised release, unless there is a positive drug test, in which event the maximum shall increase to up to one valid drug test per day (mandatory condition).*

Witness:


JOYCE K. F. K. LUM
U.S. Probation Officer

Signed:


CHRISTIAN LUPENUI
Supervised Releasee

5/3/08
Date